IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 24007 of 2006(G)

(AGAINST THE ORDER IN E.P.42/05 IN O.S.375/02 ON THE FILE OF ADDL. MUNSIFF'S COURT, ALAPPUZHA)

PETITIONER:

P.VENUGOPAL,
NOW WORKING AT STATE BANK OF TRAVANCORE,
PAZHAVEEDU BRANCH, ALAPPUZHA.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS:

BALAKRISHNA CHITTY FUND,
NEDUVARAMKOTTU P.O., ALA, CHENGANNUR,
REPRESENTED BY THE MANAGING PARTNER
V.K.BALAKRISHNAN.

BY ADV. SRI.P.JACOB VARGHESE
SRI.V.MANOJ KUMAR
SRI.VARUGHESE M EASO
SRI.VIVEK VARGHESE P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF THE EXECUTION PETITION EP 42/05 IN OS 375/02 ON THE FILE OF THE ADDL. MUNSIFF'S COURT, CHENGANNUR.**

EXT.P2 **TRUE COPY OF THE ORDER OF THE ADDL. DISTRICT COURT-II, MAVELIKARA IN IA 741/04 IN A.S.165/04.**

EXT.P3 **TRUE COPY OF THE PARTICULARS REGARDING FURNISHING OF SECURITY DTD.15.12.05 BEFORE THE ADDL. MUNSIFF'S COURT, ALAPPUZHA.**

EXT.P4 **TRUE COPY OF THE ORDER DATED 10.10.05 OF THE ADDL. MUNSIFF, ALAPPUZHA IN EP 42/05 IN OS 375/02.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 24007 OF 2006

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Dated this the 30th day of July, 2007.

J U D G M E N T

This writ petition is filed by the 2nd respondent in E.P.42/05 against the order of arrest ordered by the executing Court. He is a cashier in State Bank of Travancore and the first respondent is his wife in the execution proceedings.

2. A perusal of this Court's proceedings would show that he was in the civil jail and he was ordered to be released on payment of Rs.10,000/-. The learned counsel for the decree holder submits before me the appeal preferred as A.S.155/04 before the Additional District Court, Mavelikkara has been disposed of this Court by judgment dated 26.11.06 whereby the decree of the Court below was confirmed. Being a cashier in a Bank, that too of a Bank having the nature of S.B.T., I feel it is only desirable that some time is given to him to wipe off the liability. The decree holder also has no objection provided prompt payment is made. Therefore, the writ petition is disposed of as follows:

The writ petitioner is directed to pay the balance amount in five monthly equal installments and the first installment commences from 5.9.07 onwards. If he fails to pay any one of the installments the decree holder is entitled to proceed against him for arrest and the benefit given under this order shall stand automatically cancelled. In order to enable the judgment debtor to wipe off the liability the order of arrest passed against him is set aside. It is submitted that an amount of Rs.10,000/- in Court deposit and the decree holder is at liberty to withdraw the same from the Court below.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-